

Response and Amendment
Docket No. 2301-M

SEP 01 2006

Immunex Corporation

Remarks**Election/Restriction**

Applicants confirm their election of Group II (Claim 9) for further prosecution on the merits, with traverse.

A restriction requirement is permissible only if "[t]here would be a *serious* burden on the examiner if restriction is not required." (MPEP § 803; emphasis supplied.)

The subject matter of each of Groups I and II is defined with reference to polypeptides comprising or consisting of certain specified fragments of particular IL-4 receptor polypeptide sequences. As a result, a search of the subject matter of either group will use the same, or very similar, searches. Thus, a search of both groups will require scarcely more effort than a search of either one of them. Accordingly, Applicants respectfully assert that a search of both groups would not put a serious burden on the Examiner, and the instant restriction requirement should be withdrawn.

Amendments**In the Specification**

In the specification, the paragraph beginning at page 1, line 6, has been amended to update the "Cross-Reference to Related Applications." The Abstract of the Disclosure has been replaced. No change in the scope of the claimed invention is intended or implied by either of these amendments, nor is new matter added. Applicants respectfully request that they be entered.

In the Claims

In accordance with the traversed restriction requirement, Applicants have identified Claims 1-8 as being withdrawn. The amendment to pending Claim 9 is supported in the application as filed by, for example, Examples 10 through 13, and the claims as originally filed.

Rejections**35 USC § 112, First Paragraph—Written Description**

Claim 9 is rejected under 35 USC § 112, first paragraph, for allegedly lacking written description. Without agreeing with the basis for the instant rejection, it is moot with respect to Claim 9 as herein amended. Thus, Applicants respectfully request that the instant rejection be withdrawn.

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35 USC § 112, First Paragraph—Enablement

Claim 9 is rejected under 35 USC § 112, first paragraph, for allegedly being non-enabled. Without agreeing with the basis for the instant rejection, it is moot with respect to Claim 9 as herein amended. Thus, Applicants respectfully request that the instant rejection be withdrawn.

Double Patenting

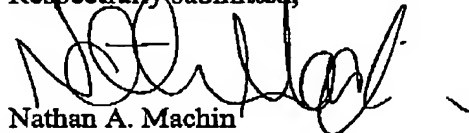
Claim 9 is rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over Claims 1 and 3 of U.S. Patent 5,717,072. Without acquiescing to the grounds of the rejection, Applicants will submit a timely filed terminal disclaimer when the claims have been found otherwise allowable.

CONCLUSION

Applicants believe that the application is in condition for allowance. An early and favorable action on the merits is earnestly solicited.

The Examiner is invited to call the undersigned attorney at (206) 265-8779 upon receipt and review of this Response to discuss any questions or concerns.

Respectfully submitted,



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